

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

REGIONAL LOGISTICS GROUP, LLC,

Plaintiff,

-VS-

WEST AMERICAN INSURANCE COMPANY,

Defendant.

**NOTICE OF REMOVAL UNDER
28 U.S.C. § 1332
(Diversity Jurisdiction)**

Erie County Index No.: 801054/2021

WDNY Civil Action No.: _____

Defendant West American Insurance Company (“Defendant”), pursuant to 28 U.S.C. §§ 1332 and 1441(a), hereby files its Notice of Removal of the above action, *Regional Logistics Group, LLC v. West American Insurance Company*, Erie County Index No. 801054/2021, from the Supreme Court of the State of New York, County of Erie, to the United States District Court for the Western District of New York, and in support thereof states:

Process and Pleadings Served Upon Defendant

1. The Summons and Verified Complaint in this action was filed in the Supreme Court of the State of New York, County of Erie, Index No. 801054/2021, on January 26, 2021. A copy of the Verified Complaint is attached hereto as **Exhibit “A.”**

2. Following the filing of the Summons and Verified Complaint, Plaintiff Regional Logistics Group, LLC (“Plaintiff”) granted Defendant an extension of time to answer or otherwise appear until April 5, 2021.

Grounds for Removal

3. Plaintiff’s Verified Complaint seeks a declaratory judgment on the issues of defense, indemnity, and estoppel arising out of Defendant’s denial of insurance coverage for an underlying matter venued in the Supreme Court of the State of New York, County of Erie, entitled

Ascion, LLC d/b/a Reverie v. Regional Logistics Group, LLC., Erie County Index No. 800124/2020. Exhibit A, pp. 1-2, 66-71, 83, 86, 91.

4. The amount in controversy is greater than \$75,000, exclusive of interest and costs.

5. Upon information and belief, Plaintiff is a domestic limited liability company, whose members are citizens of the State of New York.

6. Defendant West American Insurance Company is a foreign business corporation, organized under the laws of the State of Indiana. Defendant's principal place of business is 175 Berkeley Street, Boston, Massachusetts 02116. Defendant was served with the instant Summons and Verified Complaint on February 5, 2021.

7. The above-entitled action is a civil action over which this Court would have original jurisdiction pursuant to 28 U.S.C. § 1332, and which therefore may be removed to this Court pursuant to 28 U.S.C. § 1441, in that the action is between citizens of different states, and the matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

8. A copy of the written notice required by 28 U.S.C. § 1446(d), addressed to the adverse party and to the Clerk of Erie County, is attached as **Exhibit "B"** and will be filed in the Erie County Clerk's Office and served on Plaintiff after the filing of this Notice of Removal in the United States District Court for the Western District of New York.

9. In compliance with Local Rule 81(a)(3), an index of all documents filed in the state action is attached as **Exhibit "C."**

10. Defendant consents to the removal of this action from Supreme Court of the State of New York, County of Erie, to the United States District Court for the Western District of New York.

Timely Filing of this Notice

11. Pursuant to 28 U.S.C. § 1446(b)(1), this notice is filed within thirty days after receipt by Defendant, through service or otherwise, of a copy of the pleading setting forth the claims for relief upon which this action is based.

12. Service and notice of the filing of this Notice of Removal will be served upon the Plaintiff as required. A true and correct copy of this Notice will be filed with the Erie County Clerk's Office.

13. This action is therefore removable to this Court pursuant to 28 U.S.C. §§ 1332 and 1441.

WHEREFORE, Defendant West American Insurance Company respectfully pray for this Court to accept the removal of this action from the State Court and grant to Defendants such other and further relief as the Court deems just and proper.

DATED: March 4, 2021

BARCLAY DAMON LLP

By: Jessica E. Tariq
Anthony J. Piazza
Jessica E. Tariq

Attorneys for Defendant
West American Insurance Company
Office and Post Office Address
2000 Five Star Bank Plaza
100 Chestnut Street
Rochester, New York 14604
Telephone: (585) 295-4420